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		EXAMINER
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/774,013
Filing Date: January 31, 2001
Appellant(s): SONODA, FUMIHIRO

Ruthleen Uy
<u>For Appellant</u>

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the reply brief filed on 07-21-2006 that was filed in response to the examiner's answer mailed

on May 23, 2006.

Responsive to the reply brief filed on May 23, 2006, a supplemental Examiner's Answer is set forth below:

The argument presented under heading # 3 on pg. 6 of the reply brief ("Stavely does not disclose performing preprocessing while reading photometrically said image") was not presented in the appeal brief. The examiner is writing this supplemental examiner's answer solely for the purpose of responding to this newly-raised argument so that the Board of Patent Appeals and Interferences will have a reply to this argument on the record.

Appellant's New Argument:

The claim requires "performing preprocessing ... **while** reading photoelectrically said image." Appellant argues that the preprocessing cited by the examiner is performed **after** the photoelectric reading cited by the examiner.

Examiner's Response:

This is the first time throughout this prosecution that applicant has argued that the word "while" requires the preprocessing and the photoelectric reading to be performed contemporaneously. This new argument requires a bit of discussion of the timing of the steps in the method claim and whether Stavely teaches what is claimed.

1.   Claim Interpretation: Elements of Timing in Claim 1

Looking at the first two paragraphs in the body of claim 1, we see that the claim describes two separate instances of reading/scanning an image. The claim also specifies what order these two scans occur in. Specifically, the claim requires that the defective image (scan A) is read before the actual image (scan B) is read. The third paragraph describes that preprocessing is performed on scan A, and that it is performed while scan B is being read.

Looking to claim 2 for guidance in interpreting this limitation, claim 2 states that "said preprocessing is finished by the time the actual image is obtained." Claim 2 is not inconsistent with claim 1, because the term "while" in claim 1 does not require that the preprocessing and the reading of scan B are performed exactly simultaneously. The term "while" in claim 1 therefore simply requires that there be some overlap in time between the preprocessing that is performed on scan A, and the reading of scan B. Applicant's specification lends support to this interpretation: "[T]he preprocessing is performed during the time or before the image on the film is fine scanned by a visible light." (see paragraph [0055]).

In view of the above, the steps of the claim will be interpreted to be performed in the following order

(a) First we perform the defective image scan (scan A)

(b) Then we begin to perform preprocessing on scan A

(c) Sometime before this preprocessing of scan A is finished, we begin reading scan B.

2.   Factual Application of the Stavely Reference

As has been discussed at length in previous correspondences, Stavely discloses performing the defective scan before the actual image scan [Stavely discloses that the ordering of these two scans is not important, and thus implicitly discloses performing scan A before scan B (see Stavely col. 4 lines 24-25)][1]. Stavely discloses two ways of reading these two scans. In one instance he discloses that one of the scans is performed in its entirety, and then the next scan is performed in its entirety. In another instance he discloses switching between these two scans on a line-by-line basis [see Stavely col. 5 lines 15-17].

Stavely further discloses performing preprocessing on the defective image [see stavely col. 5 lines 60-65]. In either of the two embodiments described above, Stavely discloses performing this preprocessing while reading the actual image.

In the case where these two images are captured on a back-and-forth, line-by-line basis, Stavely discloses that the preprocessing is performed while the actual image is being captured (see Stavely col. 5 lines 45-51).

In the other case (where one image is captured prior to the other), Stavely is not explicit about when the timing of the preprocessing is performed. However, we know that it is performed after the defective image scan because the preprocessing is performed on the defective image scan. And it is readily apparent that Stavely would perform the actual scan before this preprocessing ended because Stavely expresses concern about the inefficiencies of not performing operations such as these simultaneously [see stavely col. 4: The reference describes that a system which performs in a serial fashion—rather than an overlapping, multi-tasking-type fashion—is more inefficient and slow because more memory buffers are required and the processing becomes less simplified and slower. Stavely further discloses a pixel-by-pixel method of correcting the actual image scan using the preprocessing from the defective scan (see Stavely col. 5 lines 45-47). If an artisan of ordinary skill read the Stavely reference, it would be readily apparent to her that the preprocessing of the defective image is performed in a simultaneous—or at least overlapping—manner with the scanning of the actual image. Accordingly, Stavely implicitly discloses that the actual image scan would begin before the preprocessing is finished in this embodiment

Both of these Stavely embodiments are therefore sufficient to meet the timing elements of claim 1 that are the subjects of appellant's newly-made argument.

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[1] Stavely labels the defective scan "scan B" and labels the actual scan "scan A." This labeling is the opposite of the labeling that I have used in reference to the scans performed in the claim.
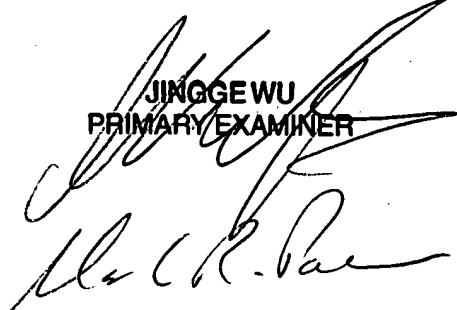
Conclusion

Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

Patrick Edwards

/JINGGE WU/
PRIMARY EXAMINER

DIRECTOR 2600